IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 6067 OF 2007

Smt. Shantabai Kailash Gaikhe & ors.... Petitioner

versus

Vijay Yeshwant Gaikhe & ors..... Respondent.

Shri a.B.Tajane for the petitioner
Shri s.M.Sabrad for respondents.

CORAM; A.P. DESHPANDE, J.
DATED; 30TH AUGUST, 2007

P.C.;

1. The interlocatory order passed by the trial court refusing to appoint Court Commissioner for local spot inspection has given raise to the filing of the writ petition. The petitioner is the original defendant whereas the respondents are the plaintiff. The respondents have filed a suit for declaration and injunction seeking to restrain the petiitoner from interfering with the possession of the suit property. The plaintiff has claimed that he is in possession whereas the defendant also claims to be in possession. The present petitioner moved an application for appointment of Court Commissioner with a view to find out as to who is in possession. The trial court has rejected the application.

2. Perused the order. The same does not call for any interference. Hence writ petition is summarily dismissed.

3. At this stage, the learned counsel for the petitioner submits that he be granted libberty to approach the trial court with a view to place on record the photographs in support of the case of the present petitioner. In the first place, no such liberty is required because the court has not declined permission to the petitioner to place on record the photographs. It shall be open for the petitioner to approach the trial court with such prayer.

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